

## Federal Communications Commission

DA 97-791

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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )

Bell Atlantic Telephone Companies' )  
Comparably Efficient Interconnection )  
Plan for the Provision of Basic Payphone )  
Services )

Implementation of the Pay Telephone )  
Reclassification and Compensation )  
Provisions of the Telecommunications )  
Act of 1996 )

CC Docket No. 96-128

**ORDER****Adopted:** April 15, 1997**Released:** April 15, 1997

By the Deputy Chief, Common Carrier Bureau:

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## I. INTRODUCTION

1. On January 6, 1997, pursuant to the requirements of the Commission's orders in the payphone rulemaking proceeding,<sup>1</sup> the Bell Atlantic Telephone Companies (Bell Atlantic) filed a comparably efficient interconnection (CEI) plan for basic payphone service.<sup>2</sup> In that proceeding, the Commission directed each Bell Operating Company (BOC) to file an initial CEI plan describing how it will comply with the Commission's Computer III<sup>3</sup> CEI equal access requirements and nonstructural safeguards for the provision of payphone services.<sup>4</sup> BOCs must make available on a nondiscriminatory basis the regulated basic services they provide to independent payphone service providers (PSPs) and to the BOC's own payphone operations to provide payphone services.<sup>5</sup>

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<sup>1</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, FCC 96-388 (rel. Sept. 20, 1996) (Payphone Order), appeal docketed sub nom., Illinois Public Telecommunications Assn. v. FCC and United States, Case No. 96-1394 (D.C. Cir., filed Oct. 17, 1996), recon., FCC 96-439 (rel. November 8, 1996) (Reconsideration Order); Order, DA 97-678 (Common Carrier Bureau rel. April 4, 1997) (Clarification Order).

<sup>2</sup> Bell Atlantic Plan to Offer Comparably Efficient Interconnection to Payphone Service Providers (filed Jan. 6, 1997) (Bell Atlantic CEI Plan). Bell Atlantic filed the Payphone CEI plan on behalf of all of the Bell Atlantic telephone companies, which include Bell Atlantic - Delaware, Inc., Bell Atlantic - Maryland, Inc., Bell Atlantic - New Jersey, Inc., Bell Atlantic - Pennsylvania, Inc., Bell Atlantic - Virginia, Bell Atlantic - Washington, D.C., and Bell Atlantic - West Virginia, Inc.

<sup>3</sup> Amendment of Section 64.702 of the Commission's Rules and Regulations, CC Docket No. 85-229, Phase I, 104 FCC 2d 958 (1986) (Phase I Order), recon., 2 FCC Rcd 3035 (1987) (Phase I Reconsideration Order), further recon., 3 FCC Rcd 1135 (1988) (Phase I Further Reconsideration Order), second further recon., 4 FCC Rcd 5927 (1989) (Phase I Second Further Reconsideration Order), Phase I Order and Phase I Reconsideration Order vacated, California v. FCC, 905 F.2d 1217 (9th Cir. 1990) (California I); Phase II, 2 FCC Rcd 3072 (1987) (Phase II Order), recon., 3 FCC Rcd 1150 (1988) (Phase II Reconsideration Order), further recon., 4 FCC Rcd 5927 (1989) (Phase II Further Reconsideration Order), Phase II Order vacated, California I, 905 F.2d 1217 (9th Cir. 1990); Computer III Remand Proceedings, 5 FCC Rcd 7719 (1990) (ONA Remand Order), recon., 7 FCC Rcd 909 (1992), pets. for review denied, California v. FCC, 4 F.3d 1505 (9th Cir. 1993) (California II); Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, 6 FCC Rcd 7571 (1991) (BOC Safeguards Order), recon. dismissed in part, Order, CC Docket Nos. 90-623 & 92-256, FCC 96-222 (rel. May 17, 1996); BOC Safeguards Order vacated in part and remanded, California v. FCC, 39 F.3d 919 (9th Cir. 1994) (California III), cert. denied, 115 S.Ct. 1427 (1995) (referred to collectively as the Computer III proceeding).

<sup>4</sup> Payphone Order, at para. 202.

<sup>5</sup> Id. at paras. 146, 200-04.

2. The Commission issued a public notice of Bell Atlantic's CEI plan on January 8, 1997.<sup>6</sup> On February 7, 1997 seven parties filed comments opposing the plan.<sup>7</sup> Bell Atlantic submitted reply comments on February 24, 1997.<sup>8</sup> For the reasons discussed below, we approve Bell Atlantic's CEI plan.

## II. BACKGROUND

3. The payphone rulemaking proceeding implemented Section 276 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (1996 Act).<sup>9</sup> Section 276 directed the Commission to prescribe a set of nonstructural safeguards for BOC payphone service to implement the statute's requirements that any BOC: (1) shall not subsidize its payphone service directly or indirectly from its telephone exchange or exchange access service operations; and (2) shall not prefer or discriminate in favor of its payphone service.<sup>10</sup> The 1996 Act provided that such safeguards must, at a minimum, include the nonstructural safeguards adopted in the Computer III proceeding.<sup>11</sup>

4. In the Payphone Order, the Commission determined that the Computer III and ONA<sup>12</sup> nonstructural safeguards would "provide an appropriate regulatory framework to

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<sup>6</sup> Pleading Cycle Established for Comments on Comparably Efficient Interconnection Plan for Payphone Service Providers, Public Notice, CC Docket No. 96-128, DA 97-31 (released Jan. 8, 1997).

<sup>7</sup> Comments of the American Public Communications Council on Bell Atlantic Telephone Companies CEI Plan (APCC Comments); Joint Comments and Objections of the Central Atlantic Payphone Association, the New Jersey Payphone Association, the New Jersey Payphone Group and the Atlantic Payphone Association to Bell Atlantic's CEI Plan (Payphone Associations Comments); MCI Telecommunications Corporation Comments (MCI Comments); Comments of Telco Communications Group, Inc., on Bell Atlantic's Comparably Efficient Interconnection Plan (Telco Comments); Comments of Oncor Communications, Inc. (Oncor Comments); Comments of the Inmate Calling Service Providers Coalition on Bell Atlantic's CEI Plan (ICSPC Comments); AT&T's Comments On Bell Atlantic's Comparably Efficient Interconnection Plan (AT&T Comments). APCC filed an erratum to its comments on February 12, 1997.

<sup>8</sup> Bell Atlantic filed an erratum to its reply comments on February 25, 1997.

<sup>9</sup> 47 U.S.C. § 276.

<sup>10</sup> 47 U.S.C. § 276(b)(1)(C).

<sup>11</sup> 47 U.S.C. § 276(b)(1)(C).

<sup>12</sup> Open Network Architecture (ONA) See Filing and Review of Open Network Architecture Plans, 4 FCC Rcd 1, 207 (1988) (BOC ONA Order), recon., 5 FCC Rcd 3084 (1990) (BOC ONA Reconsideration Order); 5 FCC Rcd 3103 (1990) (BOC ONA Amendment Order), erratum, 5 FCC Rcd 4045, pets. for review denied, California v. FCC, 4 F.3d 1505 (9th Cir. 1993), recon., 8 FCC Rcd 97 (1993) (BOC ONA Amendment Reconsideration Order); 6 FCC Rcd 7646 (1991) (BOC ONA Further Amendment Order); 8 FCC Rcd 2606 (1993) (BOC ONA Second Further Amendment Order), pet. for review

ensure that BOCs do not discriminate or cross-subsidize in their provision of payphone service."<sup>13</sup> Accordingly, the Commission required the BOCs to file "CEI plans describing how they will comply with the Computer III unbundling, CEI parameters, accounting requirements, CPNI requirements as modified by section 222 of the 1996 Act, network disclosure requirements, and installation, maintenance, and quality nondiscrimination requirements."<sup>14</sup> Obtaining approval of its CEI plan is one of the criteria a BOC must meet before its payphone operations may receive compensation for completed intrastate and interstate calls using a payphone under the new compensation plan established in the payphone proceeding.<sup>15</sup>

5. The Payphone Order required BOCs to "provide tariffed, nondiscriminatory basic payphone services that enable independent [payphone service] providers to offer payphone services using either instrument-implemented 'smart payphones' or 'dumb' payphones that utilize central office coin services,<sup>16</sup> or some combination of the two in a

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denied, California v. FCC, 4 F.3d 1505 (9th Cir. 1993) (collectively referred to as the ONA Proceeding).

<sup>13</sup> Payphone Order, at para. 199. In addition, the Commission adopted accounting safeguards for BOC and incumbent LEC provision of payphone service on an integrated basis. See Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, CC Docket No. 96-150, Report and Order, FCC 96-490, para. 100 (rel. Dec. 24, 1996) (Accounting Safeguards Order).

<sup>14</sup> Payphone Order at para. 199. In its notice of proposed rulemaking regarding the CPNI and other customer information provisions of the 1996 Act, the Commission concluded that its previously established CPNI requirements would remain in effect, pending the outcome of that rulemaking, to extent that they do not conflict with the CPNI provisions of the 1996 Act. See Implementation of the Telecommunications Act of 1996: Telecommunication Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96-115, Notice of Proposed Rulemaking, 11 FCC Rcd 12513, 12529 (1996) (CPNI NPRM).

<sup>15</sup> Reconsideration Order, at para. 132. In addition to an approved CEI plan, in order to receive compensation, the Reconsideration Order requires that "a LEC must be able to certify the following: (1) it has an effective cost accounting manual ("CAM") filing; (2) it has an effective interstate CCL tariff reflecting a reduction for deregulated payphone costs and reflecting additional multiline subscriber line charge ("SLC") revenue; (3) it has effective intrastate tariffs reflecting the removal of charges that recover the costs of payphones and any intrastate subsidies; (4) it has deregulated and reclassified or transferred the value of payphone customer premises equipment ("CPE") and related costs as required in the [Payphone Order]; (5) it has in effect intrastate tariffs for basic payphone services (for "dumb" and "smart" payphones); and (6) it has in effect intrastate and interstate tariffs for unbundled functionalities associated with those lines." Id. at para. 131.

<sup>16</sup> A "smart" payphone has capabilities programmed into it that perform certain functions, such as rating calls or collecting or returning coins. A "dumb" payphone does not have such capabilities, but must instead rely on central office controls to collect and return coins or perform other functions.

manner similar to the LECs."<sup>17</sup> Those tariffs must be filed with the applicable state regulatory commission.<sup>18</sup> Additionally, BOCs must file with the Commission tariffs for unbundled features or functions that are either used by a BOC's payphone affiliate to provide payphone service or offered by the BOC to unaffiliated PSPs on an unbundled basis.<sup>19</sup>

### III. SERVICE DESCRIPTION

6. Bell Atlantic represents that it provides two general types of transmission lines for use with payphone service: (1) Network Controlled Lines (NCL) and (2) Station Controlled Lines (SCL).<sup>20</sup> Network Controlled Lines are used in conjunction with so-called "dumb" payphones.<sup>21</sup> Station Controlled Lines are used in conjunction with so-called "smart" payphones.<sup>22</sup> Bell Atlantic represents that the several NCL services described below are the only payphone-related network services that it uses in conjunction with its own payphone operations.<sup>23</sup> Bell Atlantic also avers that the SCL and optional features available with that service have been offered under state tariff for many years to independent PSPs.<sup>24</sup> Bell Atlantic offers six different types of NCL services:

- *Two-Way Coin NCL*. This service provides network access and control for coin payphones controlled by the LEC's network. Network coin control, coin rating and special operator signaling capabilities are included as part of the service. The standard Two-Way Coin NCL allows 7 or 10 digit calling, 1+ toll dialing, and access to operator services through 0+, 0-, 00-, 01+, 011+ and 10XXX-0 dialing. Billed number screening, which prevents the billing of third number and collect charges to the payphone line number, is included with Two-Way NCL service, and call blocking, which includes the blocking of directly dialed calls to pay-per-call numbers (e.g., 900

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<sup>17</sup> Reconsideration Order, at para. 162.

<sup>18</sup> Id., at para. 162-63.

<sup>19</sup> Payphone Order, at para. 146-148; Reconsideration Order, at paras. 162-163; Clarification Order, at para. 8.

<sup>20</sup> Letter from Marie Breslin, Director - FCC Relations, to William Caton, Acting Secretary, Federal Communications Commission (March 19, 1997), Attachment 2 at 1 (Bell Atlantic Mar. 19th Ex Parte).

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id.

or 700 numbers), may be included with the Two-Way Coin NCL service at no additional charge.<sup>25</sup>

- *One-Way Coin NCL*. This service provides all of the features and functionalities included in the Two-Way Coin NCL, except the capability to receive incoming calls.<sup>26</sup>

- *Two-Way Coinless NCL*. This service provides network access and operation of coinless payphones, including card reader or credit card phones. Two-way coinless NCL service blocks chargeable (i.e., sent-paid) local or toll calls that are directly dialed without operator intervention or assistance. The only chargeable local, intraLATA toll, and interLATA calls that may be placed from this line are 0+, 0-, 01+, and 00- dialed operator calls and calls placed using an access code (e.g., 10XXX, 1-800). Outward screening is included with this service to indicate that the calls must be alternately billed as collect, third party, or credit card. Billed number screening is also included to prevent the billing of collect or third number calls to the line number.<sup>27</sup>

- *One-Way Coinless NCL*. This service provides all of the features and functionalities included in the Two-Way Coinless NCL, except the capability to receive incoming calls.<sup>28</sup>

- *One-Way Inmate NCL*. This service provides network access and operation of inmate telephone services at correctional institutions. The one-way inmate NCL service restricts all originating calls to 0+ (automated) collect calls to a presubscribed intraLATA carrier or interLATA carrier. No other outgoing calls are permitted. In Maryland, Virginia, and West Virginia, a one-way inmate coin NCL service is also available as a separate line offering, which enables inmates to also make local coin calls.<sup>29</sup>

- *Two-Way Inmate NCL*. The two-way inmate telephone service permits only directly dialed local or toll calls and 0+, 01+ and 011+ automated calls to the presubscribed

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<sup>25</sup> Id. at 1-2.

<sup>26</sup> Id. at 2.

<sup>27</sup> Id.

<sup>28</sup> Id.

<sup>29</sup> Id. at 3.

intraLATA carrier or interLATA carrier. Incoming calls can also be received on this line.<sup>30</sup>

7. Station Controlled Line service provides network access and operation of station controlled payphones (i.e., smart payphones). SCL service offers the option of blocking directly dialed calls to pay per call numbers (e.g., 900 and 700 audiotext prefixes) at no additional charge. In Washington D.C., Maryland, Virginia, West Virginia, and New Jersey, billed number (i.e., inward) screening, which prevents billing of third number and collect charges to the line number, is offered as an option with SCL service.<sup>31</sup> The following features are also available in a number of states in Bell Atlantic's region as options for use with SCL service:

- *Inward and Outward Blocking.* Inward blocking prevents all incoming calls on the SCL. Outward blocking restricts outgoing calls to 0+ or 0- operator handled calls.<sup>32</sup>

- *Inward and Outward Screening.* Inward screening provides an indicator to carriers and operator service providers that collect or third number charges may not be billed to the SCL line number. Outward screening provides an indicator to the operator services provider that all calls originating from the SCL must be alternately billed and cannot billed to the SCL line number.<sup>33</sup>

- *Line Side Answer Supervision.* LSAS provides a positive signal to the station that indicates when the called party has answered and when the called party has terminated the call.<sup>34</sup>

- *Limited InterLATA Dialing.* LID blocks outgoing chargeable interLATA toll calls, including 1+ interLATA and 10XXX+1 dialed calls. Toll free and other nonchargeable calls are not blocked. InterLATA or intraLATA calls placed through an operator service provider, such as 01+ interLATA and 10XXX+0, are also not blocked.<sup>35</sup>

#### IV. COMPLIANCE ISSUES

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<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Id.

<sup>35</sup> Id. at 4.

## A. CEI Plan Requirements

8. The Commission's CEI requirements were originally established in the Computer III proceeding, in which the Commission adopted a regulatory framework to govern the provision of integrated enhanced and basic services by the BOCs.<sup>36</sup> As applied in the payphone context, the CEI requirements are designed to give independent PSPs equal and efficient access to the regulated basic payphone services that the BOCs use to provide their own payphone services.<sup>37</sup> BOCs must also provide payphone services to independent payphone providers on a nondiscriminatory basis as required in the payphone rulemaking proceeding.<sup>36</sup> The Commission, in its Computer III proceeding, established nine specific CEI requirements,<sup>37</sup> which are discussed below. Bell Atlantic has described in its submissions how it will satisfy each of these nine requirements. We review below Bell Atlantic's CEI plan with respect to each of these requirements.

### 1. Unbundling of Basic Services

9. The Payphone Order deregulated LEC payphones and classified those payphones as customer premises equipment (CPE).<sup>38</sup> In addition to providing tariffed coin service so competitive payphone providers can offer payphone services using either 'smart' payphones or 'dumb' payphones that utilize central office coin services, a LEC must also tariff unbundled payphone features that the LEC uses or provides on an unbundled basis.<sup>39</sup> Moreover, BOCs, but not other LECs, must unbundle additional network elements when

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<sup>36</sup> See Phase I Order, 104 FCC 2d at 1026, para. 128. Requiring BOCs to file CEI plans was one of the nonstructural safeguards adopted by the Commission, in lieu of structural separation, to prevent cross-subsidization and discrimination. As a first step in implementing the Computer III framework, the Commission permitted the BOCs, which remained subject to various structural separation requirements, to offer individual enhanced services on an integrated basis following approval of service-specific CEI plans. BOCs were required to describe in their CEI plans: (1) the enhanced service or services to be offered; (2) how the underlying basic services would be made available for use by competing ESPs; and (3) how the BOCs would comply with the other nonstructural safeguards imposed by Computer III. See Phase I Order, 104 FCC 2d at 1034-59, paras. 142-200.

<sup>37</sup> See Payphone Order, at paras. 146, 200-04.

<sup>36</sup> Reconsideration Order, at paras. 163-65.

<sup>37</sup> Phase I Order, 104 FCC 2d at 1039-1043, paras. 154-166.

<sup>38</sup> Payphone Order, at para. 142.

<sup>39</sup> Payphone Order, at para. 146-148. Reconsideration Order, at para. 162-163, 165; Clarification Order, at para. 8.



required by a state or requested by payphone providers based on the specific criteria established in the Computer III and ONA proceedings.<sup>40</sup>

10. The Payphone Order requires BOCs to file CEI plans that explain how they will unbundle basic payphone services.<sup>41</sup> Specifically, a BOC must indicate how it plans to unbundle, and associate with a specific rate element in the tariff, the basic services and basic service functions that underlie its provision of payphone service.<sup>42</sup> Nonproprietary information used by the BOC in providing the unbundled basic services must be made available as part of CEI.<sup>43</sup> In addition, any options available to a BOC in the provision of such basic services or functions must be included in the unbundled offerings.<sup>44</sup>

11. As described above, the basic services underlying Bell Atlantic's payphone services consist of a Station Controlled Line (SCL) service that is used with 'smart' payphones and a Network Controlled Line (NCL) service that is used with 'dumb' payphones.<sup>45</sup> Bell Atlantic represents that NCL service will provide the same features and functionalities that Bell Atlantic utilizes in providing its own payphone services on a bundled basis, including call screening, call blocking and central office coin control to monitor, verify and return coin deposits.<sup>46</sup> In contrast, Bell Atlantic will offer certain optional features on an unbundled basis in conjunction with its SCL service.<sup>47</sup>

12. Bell Atlantic represents that all of the features and functions associated with these basic services are available to independent payphone providers on the same basis as they are available to Bell Atlantic's payphone operations.<sup>48</sup> In addition, Bell Atlantic represents that it will respond to additional requests from independent payphone providers for unbundled basic services through the existing 120-day ONA process and will make those service

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<sup>40</sup> Payphone Order, at 148; Reconsideration Order at para. 165.

<sup>41</sup> Payphone Order, at para. 204.

<sup>42</sup> *Id.* (citing Phase I Order, 104 FCC 2d at 1040); *see also* Reconsideration Order, at para. 213.

<sup>43</sup> Payphone Order, at para. 204 (citing Phase I Order, 104 FCC 2d at 1040).

<sup>44</sup> *Id.* *See also*, Reconsideration Order at para. 213 (citing Phase I Order at 1040, para. 158).

<sup>45</sup> Bell Atlantic CEI Plan at 5; Bell Atlantic Mar. 19th Ex Parte, Attachment 2. For purposes of this order, SCL service will also be referred to as "customer owned, coin operated telephone" or "COCOT" service and NCL service will also be referred to as "coin line" service.

<sup>46</sup> Bell Atlantic CEI Plan at 5.

<sup>47</sup> Bell Atlantic Mar. 19th Ex Parte, Attachment 2 at 3-4.

<sup>48</sup> Bell Atlantic CEI Plan at 4-5.

available where such requests comply with the factors established by the Commission for selection of initial ONA services.<sup>49</sup>

13. APCC and the Payphone Associations argue that the CEI plan must be rejected because it does not sufficiently unbundle payphone features and functionalities from the payphone access line.<sup>50</sup> APCC argues that Bell Atlantic must be required to offer the basic payphone lines for its COCOT and coin line services and separately offer the features and functions that are provided as part of its basic payphone service offerings.<sup>51</sup> APCC and the Payphone Associations argue that, without such unbundling and separate tariffing, it will not be possible to ensure that Bell Atlantic's payphone offerings are nondiscriminatory and priced according to cost.<sup>52</sup> APCC and the Payphone Associations maintain that PSPs must be able to subscribe to Bell Atlantic's coin line without being required to take and pay for all of the additional features bundled with the line, such as answer supervision and call screening.<sup>53</sup> Moreover, APCC argues that Bell Atlantic should price these additional features at the same rate whether they are used with COCOT or coin lines.<sup>54</sup> The Payphone Associations further contend that Bell Atlantic's claims of technical infeasibility should be rejected.<sup>55</sup> The Payphone Associations also argue that, because certain features are bundled with coin line service, the only way that unaffiliated PSPs will be able to use Bell Atlantic's coin line service is if they discontinue their use of smart payphones.<sup>56</sup> Bell Atlantic responds that its NCL and SCL offerings comply with the CEI unbundling requirement. It argues that this requirement only requires a BOC to unbundle features and functionalities that the BOC itself uses on an unbundled basis.<sup>57</sup>

14. We find that Bell Atlantic's plan satisfies the CEI unbundling requirement contained in the payphone proceeding. The payphone rulemaking proceeding requires BOCs to offer transmission services that enable unaffiliated PSPs to offer payphone services using

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<sup>49</sup> Id. at 5. The ONA factors are market demand, utility as perceived by the independent payphone providers, and technical feasibility. See In the Matter of Filing and Review of Open Network Architecture Plans, Memorandum Opinion and Order, 4 FCC Rcd. 1, 207 para. 396 (1988).

<sup>50</sup> APCC Comments at 6; Payphone Associations Comments at 27-28.

<sup>51</sup> APCC Comments at 6-7.

<sup>52</sup> Id.; Payphone Associations Comments at 28.

<sup>53</sup> APCC Comments at 6; Payphone Associations Comments at 28.

<sup>54</sup> APCC Comments at 11.

<sup>55</sup> Payphone Associations Comments at 28.

<sup>56</sup> Payphone Associations Comments at 24-27.

<sup>57</sup> Bell Atlantic Reply at 2.

either "smart" or "dumb" payphones or to offer inmate calling service.<sup>58</sup> In addition, consistent with the requirements of the payphone rulemaking proceeding, BOCs must provide, on a tariffed basis, the unbundled features and functions that they provide to unaffiliated PSPs or to their own payphone operations.<sup>59</sup> Bell Atlantic's plan, as supplemented, satisfies these requirements. We note, however, that Bell Atlantic may choose to unbundle additional payphone-specific features and functions, states may require further unbundling, or independent PSPs may request additional unbundled features and functions through the ONA 120-day service request process.<sup>60</sup> Any other features and functions provided by Bell Atlantic on an unbundled basis must comply with the tariffing and CEI requirements of the payphone proceeding, Computer III and ONA.

15. We reject the contention of APCC and the Payphone Associations that Bell Atlantic must unbundle the coin supervision and other features of its NCL service offerings. As noted in the Clarification Order, the Commission's payphone orders "do not require that LECs unbundle more features and functions from the basic payphone line . . . than the LEC provides on an unbundled basis."<sup>61</sup> In the Clarification Order, we stated that, for example, if a BOC provides answer supervision bundled with the basic payphone line, the BOC is not required either to unbundle that service from its state tariff for payphone service, or to tariff that service at the federal level. If the LEC, however, provides answer supervision separately, on an unbundled basis, either to affiliated or unaffiliated PSPs, the LEC must tariff that feature in both the state and federal jurisdictions.<sup>62</sup> Because Bell Atlantic offers, and will use, NCL service on a bundled basis, Bell Atlantic is not obligated to unbundle the individual

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<sup>58</sup> Payphone Order, at para. 146.

<sup>59</sup> Reconsideration Order, at para. 146.

<sup>60</sup> Clarification Order, at para. 8, n. 23.

<sup>61</sup> Clarification Order, at para. 16 (citing Payphone Order at para. 148; Reconsideration Order, at para. 165).

<sup>62</sup> Clarification Order, at para. 16. That Order clarified that the unbundled features and functions addressed in the payphone rulemaking proceeding are network services similar to basic service elements ("BSEs") under the ONA regulatory framework. BSEs are defined as optional unbundled features that an enhanced service provider may require or find useful in configuring its enhanced service. Id. at para. 17 (citing Filing and Review of Open Network Architecture Plans, Phase I, Memorandum Opinion and Order, FCC 88-381, 4 FCC Rcd 1 (1988) ("BOC ONA Order")). In this case, the unbundled features are payphone-specific, network-based features and functions used in configuring unregulated payphone operations provided by PSPs or LECs. Some of the LECs use terms such as tariffed "options" and "elective features" to refer to network services that other LECs call features and functions. The Clarification Order concluded that "[o]ptions and elective features must be federally tariffed in the same circumstances as features and functions must be federally tariffed, depending on whether they are provided on a bundled basis with the basic network payphone line (state tariff), or separately on an unbundled basis (federal and state tariffs)." Id. (citing Application of Open Network and Nondiscrimination Safeguards to GTE Corporation, 11 FCC Rcd 5558 (1995)).

features that comprise that service in its CEI plan. Moreover, Bell Atlantic has unbundled, and has committed to tariffing in the federal jurisdiction, basic features that Bell Atlantic offers to payphone providers that subscribe to its SCL service.<sup>63</sup> No further unbundling is required at this time.<sup>64</sup> Independent PSPs may seek further unbundling of Bell Atlantic's NCL service by making a request pursuant to the ONA process.<sup>65</sup>

## 2. Interface Functionality

16. The interface functionality requirement obligates the BOC to make available standardized hardware and software interfaces that are able to support transmission, switching, and signaling functions identical to those used by the BOC's payphone service.<sup>66</sup>

17. Bell Atlantic claims that all PSPs may connect their payphone customer premises equipment ("CPE") to Bell Atlantic's basic network through standard, publicly disclosed network interfaces.<sup>67</sup> Bell Atlantic notes that the technical specifications for these interfaces were identified in August 1996 in Bell Atlantic's Network Disclosure Statement for payphones, which was published in the Bellcore Digest.<sup>68</sup> Bell Atlantic asserts that no specialized interfaces, signaling, abbreviated dialing, or other unique capabilities will be provided to any party, including its own payphone affiliate, in support of their payphone services.<sup>69</sup> As required by the Commission's Network Disclosure requirements, Bell Atlantic also commits to disclosing any new interface in advance of its introduction.<sup>70</sup>

18. Telco asserts that Bell Atlantic's statement that PSPs will obtain access to the network through existing interfaces available through Bell Atlantic's standard network disclosure procedures is insufficient. Telco argues that Bell Atlantic must provide "further explanation or meaningful detail regarding the technical requirements a PSP must meet to

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<sup>63</sup> Letter from Marie Breslin, Director - FCC Relations, to William Caton, Acting Secretary, Federal Communications Commission (dated April 10, 1997) (Bell Atlantic Apr. 10th Ex Parte).

<sup>64</sup> Payphone Order, at paras. 146-48.

<sup>65</sup> Payphone Order at para. 148; Reconsideration Order at para. 165.

<sup>66</sup> Payphone Order at paras. 202-03; Phase I Order, 104 FCC 2d at 1039, para. 157.

<sup>67</sup> Bell Atlantic CEI Plan at 6.

<sup>68</sup> Id.; see also Letter from Marie Breslin - Director, FCC Relations, to William Caton, Acting Secretary, Federal Communications Commission (Mar. 31, 1997) (Bell Atlantic Mar. 31st Ex Parte).

<sup>69</sup> Id.

<sup>70</sup> Id.

connect to network interfaces." Telco also faults Bell Atlantic for providing no description of the interfaces.<sup>71</sup>

19. We find that Bell Atlantic complies with the interface functionality requirement. As stated above, the interface functionality requirement only obligates a BOC to make available standardized hardware and software interfaces that will be able to support transmission, switching, and signaling functions identical to those used by the BOC's payphone service provided by the BOC. Bell Atlantic avers that it has done so and Telco does not dispute this representation. Beyond the filing of network disclosures, which Bell Atlantic states that it has filed, as discussed below,<sup>72</sup> this obligation does not require Bell Atlantic to provide technical details in the CEI plan explaining how PSPs will connect to Bell Atlantic network interfaces.

### 3. Resale

20. The resale requirement established in Computer III obligates a "carrier's enhanced service operations to take the basic services used in its enhanced service offerings at their unbundled tariffed rates as a means of preventing improper cost-shifting to regulated operations and anticompetitive pricing in unregulated markets."<sup>73</sup> Based on the requirement in the Payphone Order and the Reconsideration Order, any basic services provided by a BOC to its payphone affiliate, as well as any payphone service provided to others, must be available on a nondiscriminatory basis to other payphone providers.<sup>74</sup>

21. In its CEI plan, Bell Atlantic represents that it "will purchase all underlying basic services at tariffed rates and offer them in conjunction or combination with payphones on an unregulated, detariffed basis."<sup>75</sup> We find that Bell Atlantic's CEI plan meets the resale requirement. We are not persuaded by Telco's argument that Bell Atlantic's plan is insufficient, because it "fails to provide any specificity as to what combinations will be offered for resale, whether resale will be offered on a nondiscriminatory basis, or what mechanisms will exist to enable competitors to ensure that resale obligations are being met."<sup>76</sup> We find that Bell Atlantic's representation that all basic services provided to its payphone operations will be available, pursuant to tariffed arrangements, to all PSPs, is sufficient to

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<sup>71</sup> Telco at 2.

<sup>72</sup> See infra Section III.B.2.

<sup>73</sup> Phase I Order, 104 FCC 2d at 1040, para. 159.

<sup>74</sup> Payphone Order, at para. 200; Reconsideration Order, at para. 211.

<sup>75</sup> Bell Atlantic CEI Plan at 6.

<sup>76</sup> Telco Comments at 3.

meet this CEI requirement. We find that Bell Atlantic is not required to provide in its CEI plan the level of detail sought by Telco in order to comply with the resale CEI requirement. To the extent that Telco's objections are based on concerns that Bell Atlantic's tariffed payphone offerings unlawfully discriminate against unaffiliated PSPs, contrary to Bell Atlantic's representation in this proceeding, such specific, fact-based claims should be addressed in federal or state tariff proceedings or formal complaint actions against Bell Atlantic.

#### 4. Technical Characteristics

22. This requirement obligates a carrier to provide basic services with technical characteristics that are equal to the technical characteristics the carrier uses for its own payphone services.<sup>77</sup>

23. Bell Atlantic represents that the facilities provided to both affiliated and unaffiliated PSPs are comparably efficient in type, quality and all technical parameters. Bell Atlantic also claims that all PSPs will interconnect with Bell Atlantic's basic services through published interfaces.<sup>78</sup> We are not persuaded by Telco's argument that Bell Atlantic's CEI plan fails to explain sufficiently how it will ensure that technical characteristics are nondiscriminatory, because it does not provide any details for the Commission to determine whether there will be any discrimination between affiliated and unaffiliated PSPs.<sup>79</sup> We find that Bell Atlantic is not required by our CEI rules to furnish the additional information requested by Telco in order to satisfy the technical characteristics requirement. We therefore find that Bell Atlantic's CEI plan comports with the technical characteristics requirement. To the extent that Telco obtains credible evidence that Bell Atlantic has unlawfully discriminated against unaffiliated PSPs in the assignment of access lines, Telco may initiate a formal complaint action against Bell Atlantic.

#### 5. Installation, Maintenance, and Repair

24. The Payphone Order requires BOCs to describe in their CEI plans how they will comply with the nondiscrimination requirements in Computer III and ONA regarding the quality of service, installation, and maintenance.<sup>80</sup> This requirement ensures that the time periods for installation, maintenance, and repair of the basic services and facilities included in a CEI offering to unaffiliated PSPs are the same as those the carrier provides to its own or its

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<sup>77</sup> Payphone Order, at paras. 199-207; Reconsideration Order, at 218-220; and Phase I Order, 104 FCC 2d at 1041, para. 160.

<sup>78</sup> Bell Atlantic CEI Plan at 6.

<sup>79</sup> Telco Comments at 2.

<sup>80</sup> Payphone Order at para. 207.

affiliated payphone service operations.<sup>81</sup> BOCs also must satisfy reporting and other requirements showing that they have met this requirement.<sup>82</sup>

25. In its CEI plan, Bell Atlantic represents that it will provide the same quality of installation, maintenance and repair service to both affiliated and unaffiliated PSPs. Bell Atlantic indicates that orders for installation, maintenance and repair will be assigned and completed on a nondiscriminatory basis. Bell Atlantic claims that unaffiliated PSPs will be able to report network service problems in the same manner as affiliated PSPs and also will be able to use the same service ordering methods to establish network access. In addition, Bell Atlantic avers that it will provide unaffiliated PSPs with the same scheduling and dispatch processes, so that due dates and times for completion will be provided and scheduled on a nondiscriminatory basis.

26. APCC and Telco argue that Bell Atlantic's CEI plan must provide further detail regarding how it will provide installation and repair on a nondiscriminatory basis to unaffiliated PSPs.<sup>83</sup> APCC contends that Bell Atlantic's plan must discuss the service ordering procedures that apply when a location provider changes its payphone service from a Bell Atlantic payphone to an unaffiliated PSP's payphone or vice versa, especially when a change of ownership of the location provider is involved.<sup>84</sup> APCC asserts that these procedures must be specified to ensure that conflicts that arise in this context are resolved in a nondiscriminatory fashion, and that Bell Atlantic's payphone operations are not given undue preferences.<sup>85</sup> APCC also argues that Bell Atlantic must specify the procedures that it will use to ensure that Bell Atlantic will not engage in unfair marketing practices when Bell Atlantic's payphones are replaced by payphones operated by an unaffiliated PSP.<sup>86</sup>

27. In addition, APCC asserts that Bell Atlantic is required to explain whether it intends to share personnel between its operating company and payphone operations and, if so, the measures it will implement to ensure that the use of shared personnel will not lead to

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<sup>81</sup> Id. at para. 203; Phase I Order, 104 FCC 2d at 1041, para. 161.

<sup>82</sup> Id. Bell Atlantic must provide quarterly reports on installation and maintenance of its basic services. Id. at 1055-1056, paras. 192-193. The Payphone Order does not impose any new continuing reporting requirement because BOCs are already subject to reporting requirements pursuant to Computer III and ONA. BOCs must report on payphone services as they do for basic services.

<sup>83</sup> APCC Comments at 15; Telco Comments at 3.

<sup>84</sup> APCC Comments at 16.

<sup>85</sup> Id. at 17.

<sup>86</sup> APCC Comments at 17.

discrimination in the provision of installation, maintenance and repair.<sup>87</sup> Finally, APCC argues that Bell Atlantic should identify for its payphone offerings the demarcation point between the switched network and a payphone provider's inside wire.<sup>88</sup>

28. In its reply, Bell Atlantic represents that as part of its CEI plan, it will provide service ordering, installation and maintenance, including service intervals, on a nondiscriminatory basis to both nonaffiliated and affiliated PSPs.<sup>89</sup> In support, Bell Atlantic submits its IPP Information Booklet which describes its procedures for handling orders for provisioning and repair of network services and the expected service intervals.<sup>90</sup> Bell Atlantic further represents that technical support for installation and maintenance of network services will be provided on a nondiscriminatory basis.<sup>91</sup> According to Bell Atlantic, the same technicians, monitoring systems and testing systems will be used without regard to the affiliation of the PSP.<sup>92</sup> Bell Atlantic affirms that orders, preferred request dates and repair reports will be handled on a first-come, first-served basis, although independent PSPs will be able to request that Bell Atlantic not dispatch repair personnel in response to trouble reports from premise owners, callers, or others unless the PSP authorizes such a dispatch through use of a code word or direct confirmation.<sup>93</sup> With respect to personnel sharing issues, Bell Atlantic avers that only those personnel processing or completing service orders placed by independent PSPs will have access to those accounts.<sup>94</sup> Bell Atlantic asserts that it maintains password restrictions so that other marketing personnel will not have access to this information.<sup>95</sup>

29. Bell Atlantic claims that its IPP Information Booklet also contains information concerning the demarcation point at payphone premises.<sup>96</sup> Bell Atlantic represents that its

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<sup>87</sup> APCC Comments at 17-18.

<sup>88</sup> APCC Comments at 16.

<sup>89</sup> Bell Atlantic Reply at 9.

<sup>90</sup> Id. Bell Atlantic notes that it is in the process of updating this booklet to include its newly tariffed payphone services as well as other relevant information in light of the orders released in the Commission's payphone rulemaking proceeding. Id.

<sup>91</sup> Id. at 10.

<sup>92</sup> Id.

<sup>93</sup> Id.

<sup>94</sup> Id.

<sup>95</sup> Id.

<sup>96</sup> Id.



policies related to establishing the demarcation point will apply equally to independent payphones and payphones already installed by Bell Atlantic, except as provided in the payphone rulemaking proceeding for existing grandfathered payphones.<sup>97</sup> Bell Atlantic avers that the demarcation point between regulated network facilities and deregulated premises wiring and equipment will be at the minimum point of entry of the premises (MPOE), in compliance with the Commission's MPOE standards.<sup>98</sup> For newly installed payphones, Bell Atlantic represents that it will install a network interface device (NID) that will act as the demarcation point in conformance with Part 68 of the Commission's rules.<sup>99</sup> Bell Atlantic avers that when maintenance or repair work is performed for Bell Atlantic's existing payphones grandfathered from the Part 68 requirements, a "virtual" Network Interface Device (NID) will be employed to denote the demarcation point in order to properly account for the regulated and deregulated wiring work.<sup>100</sup> According to Bell Atlantic, although no NID hardware will be physically present, the technicians will still identify the point at which a NID would have been placed for a new installation of an affiliated or unaffiliated payphone.<sup>101</sup> Bell Atlantic represents that technicians have received training on these demarcation policies and that only the work performed up to that point will be treated as regulated services.<sup>102</sup>

30. We find that Bell Atlantic's CEI plan complies with the installation, maintenance, and repair requirement. According to Bell Atlantic, the personnel that Bell Atlantic will use to provide installation, maintenance and repair will be the same for unaffiliated PSPs as well as Bell Atlantic's PSP. Bell Atlantic affirms that the same technicians, monitoring systems and testing systems will be used to install, maintain and repair lines, regardless of whether the requesting party is an affiliated or unaffiliated PSP. Moreover, Bell Atlantic represents that the time intervals for providing installation, maintenance and repair will be the same for all PSPs. We conclude that Bell Atlantic's description of the procedures that it will employ to ensure nondiscriminatory treatment of its own payphone operations and those of unaffiliated PSPs is sufficient for us to conclude that its CEI plan satisfies this parameter.

31. We further find that, so long as Bell Atlantic provides installation, maintenance and repair in a nondiscriminatory fashion and the time intervals for providing such services are the same for all PSPs, Bell Atlantic's payphone operations may share personnel with its

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<sup>97</sup> Id. at 11.

<sup>98</sup> Letter from Marie Breslin - Director, FCC Relations, to William Caton, Acting Secretary, Federal Communications Commission (April 11, 1997) (Bell Atlantic Apr. 11th Ex Parte).

<sup>99</sup> Id.

<sup>100</sup> Id.; Bell Atlantic Reply at 11.

<sup>101</sup> Bell Atlantic Apr. 11th Ex Parte.

<sup>102</sup> Id.

regulated operations. We reject APCC's argument that Bell Atlantic must provide further explanation about personnel sharing in order to ensure that there will be no discrimination against unaffiliated PSPs. As stated above, Bell Atlantic represents that no preferences in ordering, installation, maintenance, and repair will be given to its own payphone operations. In the Payphone Order, the Commission specifically declined to require BOCs to provide payphone CPE through a structurally separated affiliate.<sup>103</sup> We note that the Commission's rules require BOCs to allocate properly the costs, including costs associated with the use of personnel, between regulated and nonregulated operations.<sup>104</sup> We also note that, pursuant to section 94.904 of the Commission's rules, LECs that file CAMs are required to have an independent audit performed annually.<sup>105</sup>

32. We also conclude that Bell Atlantic has sufficiently identified the demarcation point to determine when maintenance becomes the payphone provider's responsibility and is not part of the access network service.<sup>106</sup> Finally, we find that APCC's request that service procedures address unfair marketing practices is beyond the scope of the installation, maintenance and repair requirement. To the extent that APCC's concern about unfair marketing practices raises issues about access to CPNI of unaffiliated PSPs, we conclude that Bell Atlantic's plan complies with applicable CPNI requirements.

## 6. End User Access

33. With regard to payphone services, this parameter requires the BOC to provide to all end users the same network capabilities to activate or obtain access to payphone services that utilize the BOC's facilities. This parameter also requires the BOC to provide all end users equal opportunities to obtain access to basic network facilities.<sup>107</sup>

34. Bell Atlantic represents that end users will be able to place calls from payphones operated by affiliated and unaffiliated PSPs using Bell Atlantic's basic dial tone line services in the same manner.<sup>108</sup> Bell Atlantic also asserts that all PSPs will be able to provide end users the same network dialing and calling capabilities that are available to end

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<sup>103</sup> Payphone Order, at para. 145.

<sup>104</sup> See 47 C.F.R. §§ 64.901, 64.903.

<sup>105</sup> See 47 C.F.R. § 64.904.

<sup>106</sup> Id. at 9.

<sup>107</sup> See Phase I Order, 104 FCC 2d at 1041, para. 162; Payphone Order, at para. 199.

<sup>108</sup> Bell Atlantic CEI Plan at 7.

users of Bell Atlantic payphones.<sup>109</sup> We find that Bell Atlantic's CEI plan comports with the end user access requirement established by the Commission.

## 7. CEI Availability

35. This requirement obligates a BOC's CEI offering to be available and fully operational on the date that it offers its corresponding payphone service to the public. The requirement also obligates a BOC to provide a reasonable time prior to that date when prospective users of the CEI offering can use the CEI facilities and services for purposes of testing their payphone service offerings.<sup>110</sup> Past decisions also have referred to this as the 90-day notice requirement.<sup>111</sup>

36. The payphone rulemaking proceeding established the following tariffing requirements for LECs. LECs must file tariffs in the states for basic payphone services that enable independent PSPs to offer payphone services using either smart or dumb payphones and for any unbundled features that the LECs provide to their payphone operations or to others.<sup>112</sup> LECs are not required to file tariffs for the basic payphone line for smart and dumb payphones with the Commission.<sup>113</sup> As stated in the Clarification Order, LECs are required to file state and federal tariffs for "payphone-specific, network-based features and functions" that LECs provide "separately and on an unbundled basis from the basic payphone line, either to [their] own operations or to others."<sup>114</sup>

37. The Clarification Order also granted all LECs a limited waiver of the federal tariffing requirements for unbundled features and functions that a LEC must meet before it is eligible to receive payphone compensation. Pursuant to this waiver, LECs must file interstate tariffs for unbundled features and functions within 45 days of the release date of the

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<sup>109</sup> Id.

<sup>110</sup> Phase I Order, 104 FCC 2d at 1041, para. 163. The testing period is necessary "to balance the conflicting interests of the carrier, which should have a reasonable period to develop, test, and 'de-bug' its CEI offerings before making them publicly available, and other CEI users, such as competitors, that might suffer an unfair competitive disadvantage if carriers were able to test and perfect their payphone services -- particularly, their interconnection with the basic underlying facilities -- while withholding those same basic facilities from others." Id.

<sup>111</sup> See e.g., Bell Operating Companies' Joint Petition for Waiver of Computer II Rules, Ameritech's Request for Waiver Related to Minor Amendment to Ameritech's Plan to Provide Comparable Efficient Interconnection to Providers of Voice Mail Messaging Service, CCBPol 96-23, DA 96-1894 (rel. Nov. 14, 1996) (Ameritech Minor Amendments).

<sup>112</sup> See Clarification Order, at para. 8.

<sup>113</sup> Reconsideration Order, at paras. 162-163.

<sup>114</sup> Clarification Order, at para. 18; see also Reconsideration Order at para. 163.

Clarification Order.<sup>115</sup> In addition, each individual BOC was required to file, by April 10, 1997, a written ex parte document that advises the Commission on the status of intrastate tariffs for the features and functions that it has not yet federally tariffed, and stating that it commits to filing federal tariffs for such features and functions within 45 days of the release date of that Order.<sup>116</sup>

38. Bell Atlantic represents that all basic network exchange services are currently available or will be available by April 1997 to independent payphone service providers in all geographical areas served by Bell Atlantic.<sup>117</sup> Bell Atlantic notes that existing basic payphone line services to operate smart payphones have been available to nonaffiliated PSPs for a number of years and the payphone line services to operate inmate payphones have been available since 1996.<sup>118</sup> Bell Atlantic further represents that it will make testing capability for the new NCL services available to any independent payphone service providers upon request.<sup>119</sup> Bell Atlantic also filed with its CEI plan illustrative state tariffs for its coin line (NCL) service and for the COCOT (SCL) service.<sup>120</sup>

39. APCC and the Payphone Associations contend that Bell Atlantic's CEI plan must be rejected on the ground that Bell Atlantic did not file federal tariffs.<sup>121</sup> They contend that, pursuant to the Reconsideration Order, Bell Atlantic must file tariffs for unbundled features at both the state and federal levels, and that the only service for which a federal tariff is not required is the basic line for "smart" and "dumb" payphones.<sup>122</sup> APCC argues that all basic payphone services and features other than the access line must be federally tariffed.<sup>123</sup>

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<sup>115</sup> Clarification Order, at para. 21.

<sup>116</sup> Id. at para. 22.

<sup>117</sup> Bell Atlantic CEI Plan at 7-8. Bell Atlantic represents that, at this time, tariffs for the NCL services that its own payphone operations will use are in effect in each state in its region, except for the District of Columbia. Bell Atlantic expects the District of Columbia to approve its tariff on or before April 15, 1997. Letter from Marie Breslin, Director - FCC Relations, to William Caton, Acting Secretary, Federal Communications Commission (April 1, 1997) (Bell Atlantic April 1st Ex Parte)

<sup>118</sup> Id.

<sup>119</sup> Id. at 8.

<sup>120</sup> See Id. at Attachment A.

<sup>121</sup> APCC Comments at 5.

<sup>122</sup> Id.

<sup>123</sup> APCC Comments at 5.

APCC argues that Bell Atlantic's plan must be rejected because it has not filed all required federal tariffs, including tariffs for coin line features.<sup>124</sup>

40. In response, Bell Atlantic contends that it is in compliance with the payphone rulemaking proceeding's federal tariffing requirement, as implemented by the Clarification Order.<sup>125</sup> In an ex parte filing, Bell Atlantic represents that it will file federal tariffs, in accordance with the requirements of the Clarification Order, for the following unbundled features: Line Side Answer Supervision; Inward/Outward Screening; Outward Screening; Inward Call Blocking; Outward Call Blocking; and Limited InterLATA Dialing.<sup>126</sup> Bell Atlantic also avers that it has already filed state tariffs for basic payphone lines for "smart" and "dumb" payphones, and that, through these state tariffs, its payphone operations will take the same tariffed payphone services that are available to independent PSPs.<sup>127</sup>

41. APCC also argues that Bell Atlantic must be required to disclose where coin line service is not available and whether Bell Atlantic has any payphones currently installed in those areas.<sup>128</sup> In addition, APCC asserts that Bell Atlantic must disclose how many of its payphones are subscribed to COCOT service and how many are subscribed to coin line service.<sup>129</sup> Further, APCC contends that the CEI plan is incomplete because Bell Atlantic only filed an illustrative for one state.<sup>130</sup> In response, Bell Atlantic claims that it provided citations for all the payphone line tariffs for all of the states in its CEI plan.<sup>131</sup> Bell Atlantic also attached each of its state tariffs to its Reply.

42. We find that Bell Atlantic's CEI plan complies with the CEI availability requirement.<sup>132</sup> We reject APCC's argument that Bell Atlantic must file a federal tariff for all

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<sup>124</sup> Id.

<sup>125</sup> Bell Atlantic Apr. 10th Ex Parte.

<sup>126</sup> Id.

<sup>127</sup> Bell Atlantic Reply at 3.

<sup>128</sup> APCC Comments at ii.

<sup>129</sup> APCC Comments at 4.

<sup>130</sup> APCC Comments at 6.

<sup>131</sup> Bell Atlantic Reply at 7.

<sup>132</sup> We note that our conclusion that Bell Atlantic's CEI plan complies with the CEI availability requirement, and therefore our approval of its CEI plan, is contingent on the effectiveness of Bell Atlantic's state tariffs for payphone services. As noted above, Bell Atlantic represents that its new tariffs for payphone services were effective in each of the states in its region by April 1, 1997, except in the District of Columbia where it expects its new tariffs for payphone services to be effective by April

payphone service features and functions except for the basic access line for COCOT and coin line services. As stated in the Clarification Order, BOCs need only submit federal tariffs for payphone-specific, network-based features and functions if the BOC provides them separately and on an unbundled basis from the basic payphone line, either to its payphone operations or to others.<sup>133</sup> Because Bell Atlantic will use, and offer, the features and functionalities of the NCL service on a bundled basis, Bell Atlantic need not either unbundle those features or file a separate federal tariff for them. As noted, Bell Atlantic has committed to file federal tariffs for the unbundled payphone features offered in conjunction with its SCL service. We also reject APCC's contention that Bell Atlantic may not rely on illustrative or sample tariffs. We do not require carriers to file a complete set of tariffs with their CEI submissions. Sample or illustrative tariffs are sufficient.<sup>134</sup>

43. We also conclude that Bell Atlantic is not required in its CEI plan to identify specific geographic areas where coin line service is not available or to state whether Bell Atlantic has any payphones in such areas or what type of service, NCL or SCL, is being provided. In its CEI plan, Bell Atlantic represents that "access to all basic network exchange services will be available to both affiliated and unaffiliated PSPs by April 1997 in all geographical areas served by Bell Atlantic."<sup>135</sup> Bell Atlantic further represents that "all network controlled line (NCL) services will be made available to unaffiliated payphone service providers in all central offices where such services are provided to its own payphone operations."<sup>136</sup> We find Bell Atlantic's representation about the availability of such services provides adequate information concerning the availability of its coin line services for purposes of our CEI plan requirements. We also find no basis in our CEI requirements or the payphone orders for directing Bell Atlantic to identify how many of its payphones use SCL service and how many use NCL services for purposes of satisfying our CEI requirements.

44. Finally, we waive on our motion the 90-day notice requirement for Bell Atlantic's provision of NCL services. Bell Atlantic may provide and continue to provide NCL service through the use of the CEI offering described herein for such service without first providing a period of time for unaffiliated carriers to test such services. This waiver is

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15, 1997. We note further that, because we are relying on the state regulatory commissions to review LEC tariffs for basic payphone lines, our conclusion that Bell Atlantic has satisfied the CEI availability requirement does not represent a determination that Bell Atlantic's basic payphone lines are tariffed in accordance with the requirements of Section 276.

<sup>133</sup> Clarification Order, at para. 18.

<sup>134</sup> See Phase I Order, at 1055, para. 190 ("The CEI Plan must also include sample state and federal tariffs for the Basic Interconnection Charge and the distance-sensitive transmission charges that satisfy our CEI pricing requirements") (emphasis added).

<sup>135</sup> Bell Atlantic CEI Plan at 7.

<sup>136</sup> Bell Atlantic Apr. 11th Ex Parte.

reasonable in this context because, unlike the provision of a new enhanced service, Bell Atlantic has been offering NCL service for many years. To bar Bell Atlantic from continuing to offer NCL services to provide payphone service pending completion of a testing period would result in a suspension of service. Bell Atlantic is not, however, relieved of its obligation to permit unaffiliated PSPs to conduct testing, if they deem necessary, of the NCL CEI offering. For purposes of approving this CEI plan, we simply waive the requirement that Bell Atlantic may not offer NCL services before such testing is accomplished. Bell Atlantic represents that if and when other basic services are deployed, Bell Atlantic will make testing capability available to unaffiliated PSPs at the same time that such capability is available to Bell Atlantic.<sup>137</sup>

#### **8. Minimization of Transport Costs**

45. This requirement obligates carriers to provide competitors with interconnection facilities that minimize transport costs.<sup>138</sup>

46. Bell Atlantic asserts that the Commission has found this requirement satisfied in the enhanced services context if affiliated and unaffiliated enhanced service providers (ESPs) are charged the same rates for underlying basic services.<sup>139</sup> Bell Atlantic asserts that it will charge affiliated and non-affiliated PSPs the same tariffed rates for basic payphone services.<sup>140</sup> We find that Bell Atlantic's CEI plan complies with the minimization of transport costs requirement.

#### **9. Recipients of CEI**

47. This requirement prohibits a BOC from restricting the availability of its CEI offering to any particular class of customer or PSP.<sup>141</sup>

48. Bell Atlantic avers that access to all basic network exchange services will be available, either under existing or newly-filed tariffs, to both affiliated and nonaffiliated PSPs by April 1997 in all central offices where such services are provided by Bell Atlantic to its own payphone operations.<sup>142</sup> Bell Atlantic also represents that it will make CEI testing for the

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<sup>137</sup> Bell Atlantic CEI Plan at 10.

<sup>138</sup> Payphone Order at paras. 202-03; Phase I Order, 104 FCC 2d at 1042, para. 164.

<sup>139</sup> Bell Atlantic CEI Plan at 9 (citing Phase II Reconsideration Order, 3 FCC Rcd at 1155, paras. 32-34).

<sup>140</sup> Id.

<sup>141</sup> Payphone Order at paras. 202-03; Phase I Order, 104 FCC 2d at 1042, para. 165.

<sup>142</sup> Bell Atlantic CEI Plan at 7; Bell Atlantic Apr. 11th Ex Parte.

newly-tariffed dumb payphone lines available to any nonaffiliated PSPs that request it.<sup>143</sup> We find that Bell Atlantic has proposed to provide service to CEI recipients in compliance with the Commission's requirements.

## **B. Other Nonstructural Safeguards**

49. In addition to the CEI requirements established in Computer III, and applied to BOC provision of payphone services in the Payphone Order,<sup>144</sup> a BOC that provides payphone services must comply with requirements regarding the use of customer proprietary network information (CPNI), disclosure of network information, and nondiscrimination reporting.<sup>145</sup>

### **1. Customer Proprietary Network Information**

50. The Payphone Order requires Bell Atlantic to explain how it will comply with the Computer III CPNI safeguards,<sup>146</sup> to the extent they are not inconsistent with section 222 of the Communications Act of 1934, as amended.<sup>147</sup> Although the requirements of section 222 became effective immediately upon enactment, the Commission has initiated a proceeding to consider regulations interpreting and specifying in more detail a telecommunications carrier's obligations under this provision.<sup>148</sup> The Commission has concluded that its existing CPNI regulations remain in effect, pending completion of the CPNI rulemaking, to the extent they do not conflict with section 222.<sup>149</sup>

51. In its payphone CEI plan, Bell Atlantic avers that it will comply with Section 222 and all CPNI requirements adopted in the Commission's CPNI rulemaking proceeding.<sup>150</sup> Bell Atlantic also represents that password restricted access will prevent the sales and

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<sup>143</sup> Id. at 8.

<sup>144</sup> Payphone Order, at para. 202. See also Reconsideration Order, at para. 210.

<sup>145</sup> Phase II Order, 2 FCC Rcd at 3082, paras. 73-75.

<sup>146</sup> See Phase II Order, 2 FCC Rcd at 3095, para. 156.

<sup>147</sup> Payphone Order, at para. 205 (citing 47 U.S.C. § 222, and the CPNI NPRM).

<sup>148</sup> CPNI NPRM, 11 FCC Rcd at 12514.

<sup>149</sup> Id. at 12515 (noting that, to the extent that the 1996 Act requires more of a carrier, or imposes greater restrictions on a carrier's use of CPNI, the statute governs).

<sup>150</sup> Bell Atlantic CEI Plan at 10.



marketing personnel of the affiliated PSP from accessing any CPNI of unaffiliated PSPs or others.<sup>151</sup>

52. APCC and Telco claim that Bell Atlantic's payphone CEI plan does not offer sufficient information concerning how Bell Atlantic will comply with CPNI requirements.<sup>152</sup> APCC contends that Bell Atlantic should explain how it will protect, under nondiscriminatory conditions, the CPNI of PSPs, as well as the CPNI of Bell Atlantic's existing customers, including current customers of semi-public payphone service.<sup>153</sup> APCC also argues that, since the existing tariffed semi-public service is being terminated pursuant to section 276, Bell Atlantic's payphone operation has no more right to access and use the CPNI of semi-public service customers than any other PSP.<sup>154</sup> Further, APCC contends that the deregulation of semi-public service presents PSPs with a potential marketing opportunity to replace Bell Atlantic as the payphone service provider for these customers. APCC argues that semi-public customers should be provided notice and a meaningful opportunity to replace Bell Atlantic with another payphone service provider. It contends that Bell Atlantic must disclose how it will provide such notice in a neutral fashion, including giving such customers an opportunity to authorize disclosure of CPNI on a nondiscriminatory basis to interested payphone providers without preference to Bell Atlantic's payphone operations.<sup>155</sup>

53. Bell Atlantic confirms that usage on semi-public payphone lines will be available to the PSP purchasing the underlying access line on the same basis such information is available for the NCL service and SCL service generally.<sup>156</sup> In addition, Bell Atlantic represents that it intends to inform customers of the deregulation and detariffing of their existing service, although it disagrees that special notification to current semi-public customers is mandated.<sup>157</sup> Bell Atlantic further claims that information concerning Bell Atlantic's semi-public payphones customers will remain proprietary customer account information and that no

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<sup>151</sup> Id.

<sup>152</sup> APCC Comments at 23-25; Telco Comments at 3.

<sup>153</sup> APCC Comments at 23. See also Letter from Michael S. Wroblewski, on behalf of Peoples Telephone Company, Inc., to William Caton, Acting Secretary, Federal Communications Commission (March 5, 1997) (Peoples's March 5 Ex Parte).

<sup>154</sup> APCC Comments at 24.

<sup>155</sup> Id. at 24-25.

<sup>156</sup> Bell Atlantic Reply at 12.

<sup>157</sup> Id.